

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CEDRIC PERRID RASHAD MAY
v. CIVIL ACTION NO. 5:23-cv-6-DCB-ASH
JAMES BRUMFIELD, ET AL.

PLAINTIFF
DEFENDANTS

ORDER

THIS MATTER is before the Court on Magistrate Judge Andrew S. Harris's Report and Recommendation, [ECF No. 40] (the "Report"), which addresses Cedric Perrid Rashad May ("Plaintiff")'s failure to prosecute a lawsuit that he filed under 42 U.S.C. § 1983. Magistrate Judge Harris issued his Report sua sponte after Plaintiff failed to respond to two Show Cause Orders, [ECF Nos. 35, 39], and failed to provide the Court with his current mailing address after multiple warnings. [ECF No. 40] at 1, 3. The Report cites to numerous orders and a Notice of Assignment that warned May of a possible dismissal of his case if he failed to comply with a Court order or did not notify the Court of a change of address. See Orders, [ECF Nos. 19, 18, 14, 11, 5, 3]; Notice of Assignment, [ECF No. 1-1]. The Report and the Court's electronic docket indicate that the last written communication from Plaintiff is a letter dated April 5, 2024. [ECF No. 32]; [ECF No. 40] at 3. Thereafter,

Court documents that were sent to Plaintiff's last-known mailing address at the Pike County Jail were unanswered and often returned as undeliverable. Civil Docket for Case #: 5:23-cv-00006-DCB-ASH; [ECF No. 40] at 1-2. The Magistrate Judge concluded that: "It is apparent that May no longer wishes to pursue this lawsuit." [ECF No. 40] at 3.

The Court notes that no party has filed an objection to the Report, and the time to do so has expired.¹ Where no party objects to the magistrate judge's report and recommendation and the report contains a warning about the consequences of failing to object (as this Report does), the Court is not required to perform a de novo review of the magistrate judge's determination. In such cases, the standard of review is whether the report and recommendation is clearly erroneous or contrary to law. Quinn v. Guerrero, 863 F.3d 353, 358 (5th Cir. 2017)

¹Under the applicable Federal Rules of Civil Procedure (i.e., Rules 72(b)(2), 5(b)(2)(C), 6(d) and 6(a)(3)(A)), the last day to file objections to the Report was September 3, 2024. The computation of this date includes additional time for service by mail, F.R.C.P. 5(b)(2)(C), and for days when the Clerk's office was inaccessible due to closures for weekends and legal holidays. F.R.C.P. 6(a)(3)(A); F.R.C.P. 6(d); see also Kendricks v. Methodist Children's Home, No. 6:20-CV-1006-ADA, 2021 WL 5002600, at *2 (W.D. Tex. Oct. 28, 2021); Sam v. YRC, Inc., No. 3:14-CV-5-WHB-RHW, 2014 WL 11515602, at *1 (S.D. Miss. Aug. 4, 2014).

(" ... a party is not entitled *de novo* review after failing to file written objections to the magistrate judge's R&R within a certain period of time."); see also United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989) (the clearly erroneous, abuse of discretion and contrary to law standard of review is appropriate only where there has been no objection to the magistrate's ruling). Finding no clear error in the Report and not finding it contrary to law, the Court agrees with and adopts Magistrate Judge Harris's recommendation.

Accordingly,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation [ECF No. 40] is **ADOPTED** as the findings and conclusions of this Court; and

IT IS FURTHER ORDERED that this case is **DISMISSED** without prejudice for Plaintiff's failure to prosecute and failure to comply with the Court's orders; and

IT IS FURTHER ORDERED that all pending motions, including Plaintiff's MOTION to Amend/Correct Complaint, [ECF No. 22], and Defendants' Motion for Leave to File Amended Answer and Affirmative Defenses to Complaint, [ECF No. 26], are **DISMISSED** as moot.

A separate judgment will be entered in accordance with
Federal Rule of Civil Procedure 58.

SO ORDERED, this 10th day of September 2024.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE